IN THE HIGH COURT OF JUDICATURE FOR RAJASTHAN
BENCH AT JAIPUR

JUDGMENT
IN
S.B. Criminal Appeal No.629/2007

1. Angad Singh S/o Shri Ram Singh
2. Rajendra S/o Shri Khem Singh
Versus
State of Rajasthan through P.P.

Date of Judgment :::: 24th May, 2007

PRESENT
Hon'ble Mr. Justice Narendra Kumar Jain

Shri Anurag Sharma, Counsel for accused-appellants
Shri B.N. Sandu, P.P., for the State
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By the Court:-

With the consent of the learned counsel for both the parties, the appeal is heard finally and being disposed of.

The only contention raised in this appeal by learned counsel for the appellants is that the sentence of imprisonment awarded by the trial court against the appellant no.1 Angad Singh under Section 326, Indian Penal Code (for short, 'IPC'), is excessive in nature in view of the latest judgment of the Hon'ble Supreme Court in the case of **Surjit Singh Vs. Nahara Ram & Another - (2004) 6 SCC 513**, therefore, he contended that he is not pressing the appeal on behalf of both the appellants Angad Singh and Rajendra on merits, but the sentence of

imprisonment awarded by the trial court against the appellant Angad Singh may be reduced to 18 months as awarded by the Hon'ble Supreme Court in the above referred case.

The Additional District & Sessions Judge (Fast Track) No.3, Bharatpur, vide its judgment and order dated 14.3.2007, in Sessions Case No.38/2006, convicted and sentenced the accused-appellants as under:-

Name of accused	***Conviction under Section***	***Sentence of Imprisonment***
Angad Singh	326, IPC	To undergo 7 years rigorous imprisonment and a fine of Rs.1,000/-; in default of payment of fine, to further undergo three months additional rigorous imprisonment.
Rajendra	323, IPC	Given the benefit of probation under Section 4(1) of the Probation of Offenders Act.

The learned counsel for the appellants has not challenged the order of conviction passed by the trial court against both the appellants, therefore, it is not necessary to refer and discuss the facts of the case.

The only question involved in the present case is about the reduction of sentence of the appellant no.1 Angad Singh.

The learned Public Prosecutor has not seriously opposed the request of the learned counsel for the appellants for reduction of sentence of the appellant no.1 Angad Singh in view of the fact that the order of conviction has not been challenged by him, above referred judgment of the Hon'ble Supreme Court and further that the appellant is also ready to make the payment of the amount of compensation to the injured Smt. Shiv Dei. However, the learned Public Prosecutor contended that the sentence of imprisonment may be awarded to the appellant no.1 Angad Singh for 21 months instead of 18 months as prayed for by the learned counsel for the appellants.

The Hon'ble Supreme Court in Surjit Singh's case (supra) considered the principles relating to determination of sentence. The offence in Surjit Singh's case (supra) was under Section 326, IPC; the trial court had awarded 5 years RI to accused, which was reduced by the High Court to a period of 63 days already undergone by him with increase of the amount of fine from Rs.2,000/- to Rs.25,000/-; the Hon'ble Supreme Court enhanced the period of imprisonment from 63 days to 18 months and directed that out of the amount of fine of Rs.25,000/- the amount of Rs.10,000/- may be paid to the victim-complainant.

I have considered the submissions of the

learned counsel for the parties, facts and circumstances of the present case including injury-reports, and also examined the law laid down by the Hon'ble Supreme Court in Surjit Singh's case (Supra), and after considering the same I find this case to be a fit one to reduce the sentence of imprisonment awarded by the trial court against accused-appellant no.1 Angad Singh and, in my view, the ends of justice will meet in case the sentence of imprisonment awarded by the trial court against the appellant no.1 Angad Singh is reduced to a period of 21 months with increase of amount of fine from Rs.1,000/- to Rs.25,000/-.

Consequently, the appeal of the appellant Rajendra is dismissed as not pressed.

The appeal of appellant Angad Singh is partly allowed. His conviction under Section 326, IPC, is maintained, but the order of his sentence awarded by the trial court is modified and his sentence of imprisonment is reduced from 7 years to 21 months RI and the amount of fine of Rs.1,000/- awarded by the trial court is enhanced to Rs.25,000/-; in default of payment of fine, the appellant Angad Singh shall further undergo six months additional rigorous imprisonment. In case the amount of fine is deposited by the appellant no.1 Angad Singh, then, out of that,

an amount of Rs.20,000/- shall be paid to the victim injured Smt. Shiv Dei by the trial court.

(Narendra Kumar Jain) J.

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